

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WILLIAM E. DUGAN, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	CIVIL ACTION
vs.)	
)	NO. 08 C 0641
KEVIN MISCH TRUCKING)	
& EXCAVATING, INC., an Indiana)	JUDGE RUBEN CASTILLO
corporation,)	
)	
Defendant.)	

JUDGMENT ORDER

This matter coming on to be heard upon Plaintiffs' Motion to Reopen Case and for Entry of Judgment Against Defendant, the Court, first being fully advised in the premises and upon further evidence submitted herewith, FINDS:

1. It has jurisdiction of the subject matter herein and of the parties hereto.
2. This action was originally brought by the Plaintiffs alleging Defendant failed to submit contribution reports and remit payment of fringe benefit contributions due thereon for work performed on its behalf by beneficiaries of the Plaintiff Funds.
3. On February 1, 2008, this court administratively dismissed this action without prejudice and ordered Defendant to submit to an audit of its payroll books and records for February 2006 through the present date. The Court retained jurisdiction to enforce the February 1, 2008 order and enter final judgment against Defendant.
4. On March 4, 2008, the Summons and Complaint was served on the Registered Agent/President (by tendering a copy of said documents to Carol Hurt, his mother) at his residence.

Therefore, Defendant's answer was due on March 24, 2008. As Defendant has failed to timely answer the Complaint, Plaintiffs respectfully request entry of default judgment pursuant to F.R.Civ.P. Rule 55.

5. Defendant has submitted all monthly fringe benefit contribution reports for the months of September 2007 through April 2008 required to be remitted to Plaintiff Funds. However, Defendant has failed to remit payment of all fringe benefit contributions due thereon. Accordingly, the following contributions are due the Plaintiffs from Defendant:

	<u>Contributions</u>
Welfare Fund	\$25,658.10
Pension Fund	\$21,381.75
Apprenticeship Fund	\$ 2,420.55
Vacation Fund	\$ 4,841.10

6. Defendant failed to remit payment of the fringe benefit contributions due Plaintiffs pursuant to the collective bargaining agreement and Trust Agreements. Therefore, Plaintiffs assessed liquidated damages against the Defendant in the amount of ten (10%) of all contributions due for the period September 2007 through March 2008 as authorized by the Trust Agreements, as set forth below:

	<u>Liquidated Damages</u>
Welfare Fund	\$2,454.27
Pension Fund	\$2,045.24
Apprenticeship Fund	\$ 229.20
Vacation Fund	\$ 458.37

7. Plaintiffs have incurred costs of \$415.00 and attorneys' fees of \$588.75 in this matter.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

A. That Plaintiffs recover from the Defendant, KEVIN MISCH TRUCKING & EXCAVATING, INC., an Indiana corporation, the sum of \$54,301.50 for contributions and the additional sum of \$5,187.08 for liquidated damages, or a total sum of \$59,488.58.

B. That Plaintiffs recover from the Defendant, KEVIN MISCH TRUCKING & EXCAVATING, INC., an Indiana corporation, the sum of \$415.00 for their costs and \$588.75 as and for Plaintiffs' just and reasonable attorneys' fees.

C. That Plaintiffs recover from the Defendant, KEVIN MISCH TRUCKING & EXCAVATING, INC., an Indiana corporation, the total sum of **\$60,492.33**.

D. Plaintiffs are awarded execution for the collection of the judgments and costs granted hereunder.

E. The Court hereby retains jurisdiction of this cause and all of the parties hereto for the purpose of enforcing this Order.

ENTER:


UNITED STATES DISTRICT COURT

DATED: 4/9/08

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